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Commission on Narcotic Drugs
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Agenda item 5
Implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem: follow-up to the high-level review by the Commission on Narcotic Drugs, in view of the special session of the General Assembly on the world drug problem to be held in 2016

Argentina, Dominican Republic, Netherlands and Uruguay: draft resolution**

Promotion of proportionate sentencing for drug related offences of an appropriate nature in implementing drug control policies

The Commission on Narcotic Drugs,

Recalling the concept of proportionate sentencing provided by Article 3 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and the importance of promotion of proportionate sentencing for drug offences, so as to ensure just humane and effective criminal justice response to the drug problem,

Recognizing that the 1988 Convention requires States Parties to ensure that the offences established pursuant to the Convention are liable to sanctions which take into account their degree of gravity and distinguish between offences that are 'particularly serious' and offences of a minor nature,

Reaffirming the principle that it is the responsibility of states to define crimes and determine appropriate sentencing with due regard, inter alia, to the need to deter the commission of drug related offences,

* The present revised draft resolution has not been formally edited.
** On behalf of the States Members of the United Nations that are members of the European Union.

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Recalling further the principle enshrined in all three International Drug Control Conventions that the description of offences is reserved to the domestic Law of States Parties and that such offences shall be prosecuted and punished in conformity with that Law,

Recognizing also that the 1988 Convention requires States parties to ensure that their courts and competent authorities should take into account factual circumstances,

Taking note of CND resolution 58/5 of 17 March 2015,

Noting that, the three international drug control conventions presuppose the concept of proportionate sentencing in criminal law that provides that the severity of penalties is proportionate with the gravity of the crimes,

Recalling the appropriate United Nations Standards and Norms on Crime Prevention and Criminal Justice,

Recalling further the principle enshrined in all three International Drug Control Conventions that the description of offences is reserved to the domestic Law of States Parties and that such offences shall be prosecuted and punished in conformity with that Law,

Recalling the principle of sovereign equality and territorial integrity of states and that of non-intervention in the domestic affairs of other states,

Recalling that the three Conventions establish, that States may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that drug-using offenders should be offered measures such as treatment, education, aftercare, rehabilitation or social reintegration,

Noting that some member states may provide alternative measures to prosecution or imprisonment which do not entail any impunity, in accordance with their national legislation,

Recognizing that the application of proportionate sentencing to drug-related offences, can enable State Parties to better achieve the aims and objectives of the United Nations drug control conventions,

Bearing in mind the importance of maintaining the integrity of applicable national legislation, in particular criminal law,

1. *Encourages* Member States to take appropriate measures to ensure that, subject to their constitutional principles and basic concepts of their legal system, their national law satisfies the requirements set forth in the 1988 Convention that sentencing for drug-related offences is proportionate to the severity of the offence and takes into account the facts and circumstances of each case, and also takes into consideration, as appropriate, the relevant United Nations Standards and Norms on Crime Prevention and Criminal Justice;

2. *Invites* Member States, subject to their constitutional principles and basic concepts of their legal system, to promote proportionate national sentencing policies, practices and guidelines for drug-related offences, where the severity of sentence is proportionate with the gravity of the offences, and where by both mitigating and aggravating factors are taken into account, including the

circumstances enumerated in Article 3 of the 1988 Convention and other relevant and applicable international law, and in accordance with national legislation;

3. *Also invites* Member States, to consider, subject to the basic principles of their legal systems, to develop or adopt measures such as education, treatment, rehabilitation or social reintegration, as alternative to or in addition to conviction or punishment for drug-related offences, in full compliance with appropriate provisions of Article three of the 1988 Convention;

4. *Invites* Member States on a voluntary basis to share through the CND information, lessons learnt, experience and best practices on the design implementation and results on appropriate domestic practices on proportionate sentencing pursuant to the three international drug control conventions including Article 3 of the 1988 Convention;

5. *Invites* the United Nations Office on Drugs and Crime to provide, upon request, technical assistance on the implementation of this resolution and also encourages UNODC to assist member states in sharing information, as appropriate;

6. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.